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7 **UNITED STATES DISTRICT COURT**

8

9 **DISTRICT OF NEVADA**

10 CHARLES NELSON,) 3:18-cv-00029-RCJ-CLB
Petitioner,)
v.)
WILLIAM GITTERE, et al.,)
Respondents.)

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**ORDER GRANTING UNOPPOSED
MOTION FOR EXTENSION OF
TIME TO FILE A RESPONSE TO
RESPONDENTS' MOTION TO
DISMISS SECOND-AMENDED
FEDERAL HABEAS PETITION
(ECF No. 44 Request)**

Pursuant to Rule 12 of the Rules Governing Section 2254 Cases and Section 2255 Proceedings, and Fed. R. Civ. P. 6(b)(1)(A) and LR IA 6-1, Petitioner, Charles Nelson, moves for a 30-day extension of time to file his response to Respondents' Motion to Dismiss Second-Amended Federal Habeas Petition (ECF No. 44) (hereinafter "Motion to Dismiss"). The Motion to Dismiss was filed on September 28, 2020. See ECF No. 44.

This motion is unopposed. This is Nelson's first request for an extension of time to file his response to the Motion to Dismiss. His response is currently due Friday, November 27, 2020. See ECF No. 22 at 2 ("Petitioner will have 60 days following service of a motion to dismiss to respond to the motion."); see also ECF No. 41 at 2 (order extending the time for petitioner to file his second amended petition but ordering that "in all other respects" the schedule for further proceedings set forth the court's prior order, ECF No. 22, "will remain in effect."). If this

1 unopposed motion is granted, Nelson's response to the motion to dismiss will be due on or
2 before Monday, December 28, 2020. *See* Fed. R. Civ. P. 6(a)(1)(C).

3 Reasons for the Extension Requested

4 Respondents have moved to dismiss *all* of Nelson's grounds for relief in his second
5 amended 28 U.S.C. § 2254 petition (ECF No. 42) for various reasons, and some for multiple
6 reasons. *See* ECF No. 44. Respondents claim all of Nelson's claims should be dismissed
7 because they are either untimely, unexhausted, or not cognizable, or for any combination of these
8 reasons. *Ibid.*

9 This area of federal habeas practice is factually and legally complex, requiring a
10 significant amount of time re-reading portions of the state court record, researching and
11 analyzing the law addressing relation back and timeliness issues, exhaustion issues and what is
12 considered a technically exhausted claim or a legitimate reason to overcome such a procedural
13 bar, as well as the possibility and grounds for requesting a stay-and-abeyance. Moreover, Nelson
14 must also address whether he will seek additional discovery and request an evidentiary hearing at
15 the time he files his response to the Motion to Dismiss. *See* ECF No. 22 at 2-3.

16 Counsel for Nelson is a sole practitioner. He has been working on all of the above since
17 being served with the Motion to Dismiss, but he's also had many other professional deadlines
18 and hearings over the past several weeks that required a substantial amount of time. He therefore
19 has not been able to complete the response to the Motion to Dismiss. Furthermore, counsel
20 needs more time to discuss the Motion to Dismiss, the response to the motion, discovery, and an
21 evidentiary hearing with Nelson. Most of their communication is by mail so that takes additional
22 time, too. And, the request for an additional 30 days also takes into account that we are in the
23 middle of the holiday season and the ever present (it seems) COVID-19 pandemic, which has
24 disrupted so many's personal and professional lives and seems to be getting worse at the present

1 time.

2 As noted above, this motion is unopposed. Nelson has been working on the response to
3 the motion to dismiss. He may get it filed before the requested additional 30 days expire, but to
4 be safe and for the reasons stated above Nelson is respectfully asking to have until Monday,
5 December 28, 2020 to file his response.

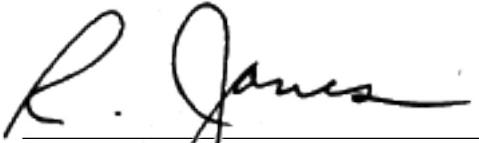
6 Conclusion

7 The Court should grant Nelson's unopposed motion and give him until Monday,
8 December 28, 2020 to file his response to the Motion to Dismiss (ECF No. 44).

9 DATED: November 24, 2020.

10
11 s/ Mario D. Valencia
12 MARIO D. VALENCIA
13 Counsel for Charles Nelson

14 IT IS SO ORDERED.

15 
16 ROBERT C. JONES

17 District Judge

18 Dated: November 24, 2020.